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10/711,290	09/08/2004	Ashish Gupta	03292.102070.	5289
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FITZPATRICK CELLA (AMEX) 1290 Avenue of the Americas NEW YORK, NY 10104-3800			EBERSMAN, BRUCE I	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,290	<b>Applicant(s)</b> GUPTA, ASHISH
	<b>Examiner</b> BRUCE I. EBERSMAN	<b>Art Unit</b> 3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 August 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

**DETAILED ACTION**

Claims 1-25 presented for examination. On 8/12/09, applicant filed an amendment, amending claims 1-9 and 22-25. After careful consideration of the applicants arguments and amendments, the examiner finds them to be moot in view of new grounds of rejection. This action is a Final Rejection of the claims.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8,22-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 1, recites an apparatus with processor and memory executable by said processor with computer code. Applicant has improved the claims by adding "computer implemented method" to the pre-amble. Further "using a programmed computer system" for the establishing step and associating step has been added. However, applicant needs a tie between said hardware and said significant steps. As such, applicant might consider adding the the computer system to the recognizing and determining and processing steps (significant ones).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,3,5-14,16-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Weichert in view of US Patent Application Publication to Topping 20040151353 and US Patent Publication 2003/0061157 to Hirka

As per claim 1, Weichert discloses;

establishing using a programmed computer system a first transaction account and a second transaction account, wherein said first and second transaction accounts are associated with first and second transaction account identifiers, respectively; (0029) associating using said programmed computer system said first and second transaction account identifiers with a common account identifier; (0004, 0032, and 0106 ) receiving, using a programmed computer system, said common account identifier; (0029-0032) recognizing said common account identifier as being associated with more than one account; (0029-032) determining, based on selection criteria, at least one of said first and second transaction accounts to access for processing a transaction, resulting in a selected transaction account; (0029-32)

accessing said selected transaction account based on said determining step; and  
(0029-32)

processing the transaction via said selected transaction account. (0032)

biometric identification and pin numbers for multiple account access. (0072)

Weichert does not explicitly disclose;

wherein said selection criteria include at least one of a plurality of biometric input identifiers respectively corresponding to said first and second transaction accounts, and a plurality of personal identification numbers respectively corresponding to said first and second transaction accounts, wherein said selection criteria further include said first transaction account being selected by default if a transaction amount is within a first range of amounts and said second transaction account being selected by default if said transaction amount is within a second range of amounts and said second range of amounts being non-overlapping

(in summary, Weichert does not explicitly disclose direct association of one biometric with one account and a second with a second account in parallel with 2 pin numbers, Topping is being introduced to disclose the multiple biometric functionality.)

Topping teaches; the concept of linking biometric indicators to specific functions on a computer, one for internet, one for system access (0032) and further an example where each TV channel could be allocated to a different fingerprint (biometric). (0034)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Weichert with the biometric teachings of Topping for the motivation of adapting fingerprinting technology (0004) to security.

Weichert and Topping do not explicitly disclose;  
wherein said selection criteria further include said first transaction account being selected by default if a transaction amount is within a first range of amounts and said second transaction account being selected by default if said transaction amount is within a second range of amounts and said second range of amounts being non-overlapping.

Hirka teaches;

wherein said selection criteria further include said first transaction account being selected by default if a transaction amount is within a first range of amounts and said second transaction account being selected by default if said transaction amount is within a second range of amounts and said second range of amounts being non-overlapping (0051, rules can be set by merchant or cardholder "hard rules" (must comply) or preferences (ie if possible), less than \$5 use stored value, 5-10, debit, >50 credit card for example)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the payment management system of Weichert with the multi-function card system of Hirka with various mechanisms for choosing the account to be used based on rules tied to amounts for the motivation of creating a convenient multipurpose card capable of debiting multiple accounts.(0002)

As per claim 3, Weichert discloses; the step of replacing said common account identifier with one of said first and second transaction account identifiers associated with said selected transaction account during at least one of the accessing and processing steps. (0032, Weichert allows the use of either a common account number or can work with the account number of one account)

As per claim 5, Weichert discloses said common account identifier is identical to at least one of said first and second transaction account identifiers. (0071) (various methods are disclosed, including where a user card could also be the id mechanism which triggers the ability to select other accounts).

As per claim 6, Weichert discloses a user associating a common account identifier with said first and second transaction accounts. (032, 036-7, ~~user~~ can configure accounts as desired)

As per claim 7, Weichert discloses; selection criteria is modifiable may be modified by a user of said first and second transaction accounts. (029-32, various methods of selection are disclosed)

As per claim 8, Weichert discloses; a settlement process comprising the steps of: processing a request for payment to said merchant when said merchant submits a settlement record (067) associated with said common account identifier; (032)

recording transactions processed as settlement records in a settlement table; and  
paying said merchant. (067)

As per claim 9, Weichert discloses;

Establish a first transaction account associated with a first transaction account identifier;  
(0030)

Establish a second transaction account associated with a second transaction account  
identifier, wherein said first (0030) and second transaction accounts are associated  
with a common account identifier; and (0030)

determine, based on selection criteria in substantially real time, ~~which~~ one of said first  
and (0030)

said second transaction accounts to access during a financial transaction(0030)

Weichert does not explicitly disclose;

wherein said selection criteria include at least one of a plurality of biometric identifiers  
respectively corresponding to said first and second transaction accounts, wherein said  
selection criteria further includes said first transaction account being selected by default  
if a transaction amount being selected by default if said transaction amount is within a  
second range of amounts, said first range of amounts and said second range of  
amounts being non-overlapping; and a plurality of personal identification numbers  
respectively corresponding to said first and second transaction accounts.

Topping teaches;

wherein said selection criteria include at least one of a plurality of biometric identifiers respectively corresponding to said first and second transaction accounts, and a plurality of personal identification numbers respectively corresponding to said first and second transaction accounts. (0032, 0034)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Weichert with the biometric teachings of Topping for the motivation of adapting fingerprinting technology (0004) to security.

Weichert and Topping do not explicitly disclose;

wherein said selection criteria further include said first transaction account being selected by default if a transaction amount being selected by default if said transaction amount is within a second range of amounts, said first range of amounts and said second range of amounts being non-overlapping.

Hirka teaches;

wherein said selection criteria further include said first transaction account being selected by default if a transaction amount is within a first range of amounts and said second transaction account being selected by default if said transaction amount is within a second range of amounts and said second range of amounts being non-overlapping (0051, rules can be set by merchant or cardholder "hard rules" (must comply) or preferences (ie if possible), less than \$5 use stored value, 5-10, debit, >50 credit card for example)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the payment management system of Weichert with the multi-function card system of Hirka with various mechanisms for choosing the account to be used based on rules tied to amounts for the motivation of creating a convenient multipurpose card capable of debiting multiple accounts.(0002)

As per claim 10, Weichert discloses; first and second transaction accounts each includes at least one of a credit account, debit account, loyalty account, phone card account and a stored value account. (041, credit and debit, claim 9 stored value)

As per Claim 11, Weichert discloses; said first and second transaction accounts each includes at least one of a credit account, debit account, loyalty account, phone card account and a stored value account, and wherein one of said first and second transaction accounts is represented by a physical instrument having associated therewith indicia representing said common account identifier. (0041,0071)

As per claim 12, Weichert discloses; wherein the common account identifier is the first transaction account identifier. (032, enabler stores a number of payment accounts, including the payment account)

As per claim 13, Weichert discloses; the common account identifier is the first transaction account identifier, and wherein said first transaction account includes a credit account. (0032, 0041, credit debit)

As per claim 14, Weichert discloses; at least one of said first transaction account identifier, said second transaction account identifier and said common account identifier is associated with a transaction card. (transaction card (032)

As per claim 16, Weichert discloses; said selection criteria include at least one of transaction specific input based criteria and default criteria. (029-32), default – (029), specific, (030-31)

As per claim 17, Weichert discloses; selection criteria include at least one of transaction specific input based criteria and default criteria, (030-criteria) and wherein said transaction specific input based criteria include at least one, of prompts at an ATM, and prompts at a point of sale terminal (pos). (032, POS, prompts)

As per claim 18, Weichert discloses; selection criteria comprise at least one of transaction specific input based criteria and default criteria, and wherein said default criteria comprise at least one of owner selected rules and card provider rules. (0110, user rules,0108-default criteria, determine if balance is sufficient)

As per claim 19, Weichert discloses; [Claim 1 9] The system of claim 9, wherein said selection criteria include at least one of transaction specific input based criteria and default criteria, and wherein said default criteria include at least one of minimum fund amount rules, maximum fund amount rules, type of transaction rules, and type of merchant rules. (minimum balance rules 0107)

As per claim 20, Weichert discloses; criteria comprise at least one of transaction specific input based criteria and default criteria, and Weichert (059, variety of different prioritization schemes) Weichert further discloses accessing a second account if the first account is inadequate (0029)

Weichert, Topping do not explicitly disclose accessing a stored value card first and credit card second.

Hirka teaches;

a variety of payment methods and default criteria are anticipated (0051). It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the multi account disclosures of Weichert with the multiple criteria of Hirka for motivation of customer convenience. (0002)

3. Claims 2, 4,15,21-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Weichert in view of Topping, and US Patent Publication 20030061157 to Hirka further in view of US Patent Application Publication to Blagg, 2004/0049452

As per claim 2; Weichert discloses; comprising the step of sending one bill to an account holder associated with said common account identifier, (0058 Weichert, billing) Weichert (058), Topping and Hirka, do not explicitly disclose consolidated billing.

Blagg teaches wherein said bill reporting information relates to both of said first and second transaction accounts. (0068) in a multiple credit line presentation instrument. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the billing disclosures of Weichert with the consolidated billing of Blagg for the motivation of simplifying the life of a user while facilitating the use of multiple accounts with the same card. (0004)

As per claim 4, Weichert discloses;  
recognizing said common account identifier as being associated with more than one account; (0030-2)  
determining, based on said selection criteria, at least one of said first and second transaction accounts to access for processing said transaction, resulting in a selected transaction account;(0030-1)  
accessing said selected transaction account system based on said determining step(0030-1);

Weichert, Topping and Hirka do not explicitly disclose; receiving a reconciliation file including said common account identifier and processing the reconciliation file via a system associated with said selected transaction account. Blagg teaches capability to settle accounts as a group or separately (0073) and consolidated billing (068) which would include; receiving a reconciliation file including said common account identifier; processing the reconciliation file via a system associated with said selected transaction account. (0073) It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the multiple account disclosures of Weichert with the separate or combined settlement of consolidated accounts of Blagg for the motivation of allowing account holders to enjoy the convenience of multiple accounts with one card or device. (0004)

As per claim 15, Weichert discloses;

first transaction account includes a credit account (0030-2), could be either debit or credit) and said second transaction account includes a stored value account, (0030-2) (could be either) and wherein one of said first and second transaction accounts is represented by a physical instrument (0106) having associated therewith indicia representing said common account identifier,

Weichert, Topping and Hirka do not explicitly disclose a first account being a credit card and the second account being shared value. (Hirka does not exclude this combination and one of ordinary skill in the art might recognize Hirka to be modifiable or usable as such)

Blagg teaches a variety of combinations (0037) for the purpose of meeting customer needs. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the multi account disclosures of Weichert with the account choice teachings of Blagg for the motivation of user convenience, (0004)

As per claim 21, Weichert, Blagg and Postrel do not explicitly disclose; a single billing statement is presented showing information about transactions on the credit card account and the stored value account.

Blagg teaches a single billing statement is presented showing information about transactions on the credit card account and the stored value account. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosure of Weichert related to multiple accounts with the multiple billing of Blagg for the motivation of customer convenience. (0004)

As per claim 22, Weichert discloses;  
receiving using a programmed computer system transaction request information from a cardholder via a remote terminal, wherein said request includes a common transaction account identifier; and (0004,0030,0106)  
processing using a programmed computer system said common transaction account identifier to determine based on selection criteria which cardholder transaction accounts are associated therewith, (0030-2)

Weichert does not explicitly disclose;

wherein only one of said card holder transaction accounts includes a credit card account.

and wherein said selection criteria include at least one of a plurality of biometric input identifiers respectively corresponding to a first transaction amount and a second transaction account, and a plurality of personal identification numbers respectively corresponding to said first and second transaction accounts, wherein said selection criteria further include said first transaction account of said card holder transaction accounts being selected by default if a transaction amount is within a first range of amounts and a second transaction account of said card holder transaction accounts being selected by default if said transaction amount is within a second range of amounts, said first range of amounts and said second range of amounts being non-overlapping

Toppings teaches;

and wherein said selection criteria include at least one of a plurality of biometric input identifiers respectively corresponding to said first and second transaction accounts, and a plurality of personal identification numbers respectively corresponding to said first and second transaction accounts. (0032,34)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Weichert with the biometric teachings of Topping for the motivation of adapting fingerprinting technology (0004) to security.

Weichert and Topping do not explicitly disclose;

wherein only one of said card holder transaction accounts includes a credit card account. wherein said selection criteria further include said first transaction account of said card holder transaction accounts being selected by default if a transaction amount is within a first range of amounts and a second transaction account of said card holder transaction accounts being selected by default if said transaction amount is within a second range of amounts, said first range of amounts and said second range of amounts being non-overlapping

Hirka teaches;

wherein said selection criteria further include said first transaction account being selected by default if a transaction amount is within a first range of amounts and said second transaction account being selected by default if said transaction amount is within a second range of amounts and said second range of amounts being non-overlapping (0051, rules can be set by merchant or cardholder "hard rules" (must comply) or preferences (ie if possible), less than \$5 use stored value, 5-10, debit, >50 credit card for example)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the payment management system of Weichert with the multi-function card system of Hirka with various mechanisms for choosing the account to be used based on rules tied to amounts for the motivation of creating a convenient multipurpose card capable of debiting multiple accounts.(0002)

Weichert, Topping, and Hirka do not explicitly disclose;

wherein only one of said card holder transaction accounts includes a credit card account. Blagg teaches a variety of combinations of cards which would include the combination where (0037) wherein only one of said card holder transaction accounts comprise a credit card account. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the multiple account linkage disclosures of Weichert with the variety of accounts of Blagg to create a linked account where only one credit card was used for the motivation of convenience to the customer who might require only a specific set of choices such as 1 credit card and other cards(0004 )

As per claim 23, Weichert discloses; 23] The process of claim 22, wherein another of said card holder transaction accounts includes a stored value account. (039-041)

As per claim 24, Weichert discloses; wherein at least one of said cardholder transaction accounts is an external transaction account. (032 and 044, no limitations on types of accounts is disclosed)

As per claim 25, Weichert discloses; The process of claim 22, wherein said remote terminal is a card reader. (0049)

***Response to Arguments***

Claims 1-25 presented for examination. On 8/12/09, applicant filed an amendment, amending claims 1-9 and 22-25. After careful consideration of the applicants arguments and amendments, the examiner finds them to be moot in view of new grounds of rejection. This action is a Final Rejection of the claims.

35 USC 101 -Applicant has amended the claims to include a computer however, there is a lack of a significant tie of said computer system to the key portion of the claims which is required for method claims. The use of a programmed computer system does not create a computer system claim.

35 USC 103 (A) - In view of applicant's amendments, patent publication to Postrel has been substituted with 2003/0061157 to Hirka. As a result, the applicant's arguments are moot.

***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRUCE I. EBERSMAN whose telephone number is (571)270-3442. The examiner can normally be reached on 630am-5pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/  
Supervisory Patent Examiner, Art Unit 3691

Bruce I Ebersman  
Examiner  
Art Unit 3691

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